

Inventor(s): ESCH *et al.*

Application No.: 08/870,591

Attorney Docket No.: 021123-0238397

IV. REMARKS

Preliminary Remarks –

Upon entry of this amendment, claims 16, 17, and 20 will be pending, of which claim 16 is independent. This amendments is filed prior to the issuance of a first official action on the merits after a request for continued examination. Therefore, the applicants believe that no fee is due and respectfully request consideration and allowance of the present application.

Amendments to the Specification –

By the foregoing amendment, the applicants have replaced the specification as originally filed with the substitute specification enclosed herewith. The substitute specification is in compliance with 37 C.F.R. §1.125 and does not include new matter. The applicants also enclose a marked-up version of the specification relative to the immediate prior version of the specification of record in accordance with 37 C.F.R. §1.125(c).

The changes made by the substitute specification relative to the immediate prior version are indicated using the paragraph numbers of the marked-up specification and are as follows:

- 1) updated priority information in the new paragraph immediately following the title;
- 2) paragraphs individually numbered using consecutive Arabic numerals;
- 3) correction of the reference citation information in paragraph [0002];
- 4) change in the Silanol group density ($V_2 = \text{NaOH consumption}$), *i.e.*, the Sears number, from 6 to 20 ml to 3 ml/(1.5 g) to 9.5 ml/(1.5 g) in paragraph [0008] is the correction of an obvious error. The calculation of the Sears numbers according to the procedure of Sears, *Anal. Chem.* 28(12), 1981 – 1983, 1956 (which was inadvertently indicated as G.W. Sears, *Analyt. Chemistry* 12, 1982-83 (1956) in paragraph [0009], now corrected) would result in the values of 3 ml per 1.5 g of silica to 9.5 ml per 1.5 g of silica. As well known to one of ordinary skill in the art, the standard procedure in determining Sears values is to calculate them per 1.5 g. Accordingly, the units of all Sears values (V_2/V_1) in the substitute specification are changed to “/(1.5g)”;
- 5) clarification of the pressure range (7 bar to 2000 bar) in the determination of pore volume by mercury porosimetry according to DIN 66 133, the instrument used for

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photon correlation spectroscopy, and consistence in the reference information in paragraph [0009];

- 6) the changes in the table in paragraph [0010] and those in paragraph [0012] are the same as those made in paragraph [0008] (see point 4, *supra*);
- 7) paragraph [0015] explicitly recites other preferred ranges of V_2/V_1 . All values are present in the specification;
- 8) correction and standardization of reference information in paragraph [0029];
- 9) paragraph [0043] to [0049] contain brief descriptions of the figures. This information was merely moved from the end of the text of the specification to the current position in accordance with current U.S. patent practice;
- 10) in paragraph [0054], the values of V_2/V_1 and DBP/CTAB were inadvertently omitted in the original specification. V_2/V_1 is a parameter inherent in the silica and one of ordinary skill in the art would obtain this value if he prepared the silica according to the procedure described. Both the DBP and the CTAB values were listed in the text of the original specification. Therefore, the calculation of the DBP/CTAB value is a trivial exercise;
- 11) the value of V_2/V_1 in paragraph [0057] was also inadvertently omitted (see point 10, *supra*);
- 12) the tables in paragraph [0062] reflect the recalculated (and accurate) Sears values as explained in point 4 (*supra*);
- 13) the ultrasonic device used in Example 6 is listed in paragraph [0064];
- 14) in the second table of paragraph [0068], the term "MTS (DIN 53 513)" is replaced by "Loss $\tan \delta$ according to DIN 53 513, device used: MTS" in order to more clearly explain the $\tan \delta$ values. The $\tan \delta$ values themselves are inherent to the silica and were inadvertently omitted in the text of the original specification;
- 15) in the second table of paragraph [0068] the term "MTS (DIN 53 513)" is replaced by "Loss $\tan \delta$ according to DIN 53 513, device used: MTS" as explained in point 14 (*supra*);
- 16) the remaining changes are correction of typographical errors or aesthetic in nature.

Finally, the abstract of the disclosure was replaced with a new abstract that contains the corrected Sears values.

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Amendments to the Claims –

Claim 16 is amended to correct the Sears values, as explained above.

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V. CONCLUSION

The applicants wish to thank the examiner for the courtesy shown the undersigned during a telephone conference held in October 2003 (subsequent to the filing of the RCE). The discussion centered on the fact that the applicants had recently noted a calculation error in the Sears-number data and related-Sears number data reported in the current specification. The applicants have corrected the errors by recalculating using the method originally cited in the specification. As the examiner will note, no new matter is believed to have been introduced herein. The examiner will also note that the trend in data is the same as with the incorrectly calculated data. Should the examiner have any questions regarding this information, he is strongly urged to contact the undersigned at the number indicated.

In view of the foregoing, the claims are now believed to be in form for allowance, and such action is hereby solicited. If any point remains in issue that the examiner feels may be best resolved through a personal or telephone interview, the examiner is strongly urged to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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